IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 15498 of 2003

Between:

Mir. Khamruddin Ali Khan, S/o. Moosakhan
H.No.6-3-1089/C, Somajiguda, Hyderabad.

... PETITIONER

AND

1. Forest Department rep by Curator Banjara Hills, Hyderabad.
2. Divisional Forest Officer Planning and Extention
   Lakdi-ka-pool, Hyderabad.
3. The Curator National Parks, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the Respondents in high handedly dispossessing and digging the land bearing Sy.No.1 admeasuring 250 acres situated at Chilkur Village, Moinabad Mandal, Ranga Reddy Dist. as arbitrary, illegal.

Counsel for the Petitioner: MR.VIJAY KUMAR HEROOR

Counsel for the Respondents: GP FOR FORESTS

The Court made the following:

ORAL ORDER:

This Writ Petition is filed alleging that the respondents are trying to dispossess the petitioner from the land and digging the land in Survey No. 1 admeasuring 250 acres situated at Chilkur village, Moinabad Mandal, Ranga Reddy District, without due process of law.

2. According to the petitioner, he acquired the land through a Firman issued by H.E.H Nizam Mir Osman Ali Khan Bahadur on 15th Sahban 1367 Hijri. The Forest Department notified the lands including these lands as a reserve forest, in all in an extent of 1211 acres and a notification was issued under Section 4 of the A.P. (Telangana Area) Forest Area, 1355 fasli to constitute Chilkur forests block in Chilkur village and appointed the Forest Settlement Officer to enquire and determine the existence, nature and extent of any rights, if any, claimed in the lands notified, by any person. According to the petitioner, the Forest Settlement Officer by an order dated 13.06.1988 upheld the petitioner's claims to being the owner of the land while rejecting the claim of several others. Persons who were aggrieved by the orders of the Forest Settlement Officer, filed CMAs against the order before the Principal District Judge, Ranga Reddy District in CAs 84, 85,96 and 116 of 1988. The petitioner got himself impleaded in these CMAs. The learned District Judge, Ranga Reddy allowed the CMAs vide IA Nos. 1794, 2842, 2043, 2044 of 1999 on 23.08.2001 and remanded the matter to the Forest Settlement Officer to conduct fresh enquiry after hearing all the necessary parties. As against the above orders of the learned District Judge, Ranga Reddy District, the petitioner asserts, some of the aggrieved claimants filed CRPs which are pending before this Court. At that stage,

the petitioner alleges, the respondents' staff have come to the land on 24.07.2003 and tried to dispossess the petitioner and therefore, the Writ Petition is filed.

3. The Forest Department, Wildlife Management Division, Hyderabad has filed a counter affidavit categorically asserting that the land is in possession of the Forest Department, and that the petitioner is not in possession of any land in Survey No.1 of the village, that the entire Survey No.1 of Chilukur Village admeasuring 1211 acres is notified as a Reserve Forest block and was in continuous possession of the Forest Department since 1956 and therefore, the question of dispossessing the petitioner by the respondents does not arise.

4. As apparent from the aforesaid pleadings there is a dispute as to the title to the land as well as possession thereof. Such disputed facts normally do not have any adjudicative disposition before this Court under Article 226 of the Constitution of India. The remedy of the petitioner is to approach appropriate Civil Court of competent jurisdiction.

5. The Writ Petition is therefore, dismissed with a liberty to the petitioner to pursue appropriate alternative remedies. No costs.

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30-12-2004

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To

1. The Curator, Forest Department, Banjara Hills, Hyderabad.
2. The Divisional Forest Officer Planning and Extension
   Lakdi-ka-pool, Hyderabad.
3. The Curator, National Parks, Hyderabad.

4. 2 CCs to GP for Forests, High Court Buildings, Hyderabad (OUT)

5. 2 CD copies.